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July 25, 2000 DOCKET FILE COPY ORIGINAL

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals/445 Twelfth Street, S.W.
Washington, D.C. 20554

VIA UPS OVERNIGHT

RECEIVED

JUL 26 2000

FCC MAIL ROOM

RE: Comments in MM Docket No. 00-87; RM 9870

Dear Ms. Salas:

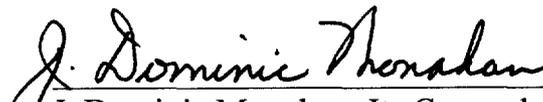
There is transmitted herewith on behalf of Combined Communications, Inc. ("Combined Communications"), the licensee of Station KTWS(FM), Bend, Oregon, an original plus three copies of its Comments in the above-entitled rulemaking.

An extra copy of this transmittal letter is enclosed, as well as a pre-addressed, stamped envelope. Please confirm your receipt of the filing of these Comments by date stamping the extra copy of this transmittal letter and returning it to the undersigned counsel.

Should additional information be desired concerning these Comments or the Motion to Accept Late-Filed Comments, please contact undersigned counsel.

Respectfully submitted,

COMBINED COMMUNICATIONS, INC.


J. Dominic Monahan, Its Counsel

JDM/nlk

Enclosures

cc: Ms. Leslie K. Shapiro, FCC
Lee J. Peltzman, Esquire
Dawn M. Sciarrino, Esquire
Clifford M. Harrington, Esquire
Paul A. Cicelski, Esquire
Charles V. Chackel

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment to §73.202(b)) **MM Docket No. 00-87**
Table of Allotments) **RM-9870**
FM Broadcast Stations)
(Brightwood, Madras, Bend and)
Prineville, Oregon)

TO: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS

Combined Communications, Inc. (“Combined Communications”), the licensee of Station KTWS(FM), Bend, Oregon, through its counsel, respectfully submits its Comments in the above-entitled rulemaking, opposing the counter-proposal submitted by Madras Broadcasting (“Madras Broadcasting”) proposing the allocation to Channel 251C-1 to Madras, Oregon. In support, the following is shown.

Combined Communications is the licensee of Stations KTWS(FM), KTMK(FM) and KBND(AM), Bend, Oregon and Station KLRR(FM), Redmond, Oregon. Station KTWS(FM) operates on Channel 252 as a C-3 facility.

Madras Broadcasting has submitted a counter-proposal to the original filing of Big Muddy Broadcasting (“Big Muddy”) which had proposed the allocation of Channel

251C-3 in Brightwood, Oregon. Madras Broadcasting proposes instead to allocate that channel to Madras, Oregon at a site restricted to a point some 36 kilometers northeast of Madras, Oregon. In addition, the Madras allocation would require two channel substitutions, one of which would require Station KTWS to shift from Channel 252C-3 to Channel 253C-3. In addition, Channel 255C-3 would have to be substituted for Channel 254C-3 in Prineville, Oregon.

Combined Communications objects to the proposal on grounds the counter-proposal is an inefficient allocation of the spectrum and imposes an undue burden on Combined Communications. Moreover, preliminary engineering studies show that other FM channels are available which can be allocated to Madras without requiring a site restriction.¹ This approach not only allows the original rulemaking to allocate Channel 251C-3 to Brightwood to remain in place, but will also allow Madras to receive a first local service. At the same time, Combined Communications will not be forced to switch channels and undertake the process of re-establishing a station's identity at a new dial location.

Facing another forced channel change within two years is not an appealing prospect to Combined Communications. As the Commission's records will show, Combined Communications was subject to a Show Cause Order in MM Docket No. 96-7, which required it to shift KTWS's sister facility, Station KLRR(FM), from Channel 298C-2 to Channel 269C-2 in February, 1999. Although the proponent of the

¹At least five other FM channels are available and can be used in Madras, including Channels 291C-1, 291C-2, 227C-3, 229C-3 and 227A.

channel change was required to reimburse Combined Communications for its “reasonable out-of-pocket” expenses, it required a prolonged period of negotiation, challenge and uncertainty. And the resultant loss of KTWS’s audience because of the new dial position has yet to be overcome after more than a year. Now, Madras Broadcasting seeks to put Combined Communications through the ordeal of another channel change within two years.

Combined Communications recognizes that it is standard procedure to require that the beneficiary of a forced channel change by a Show Cause Order to reimburse the reasonable out-of-pocket expenses of the impacted station. However, where the proponent of the channel change has no identity other than a phantom name, there is no assurance of ability to meet the reimbursement obligation.² In the instant case, the problem is further compounded by the fact the eventual licensee of the channel proposed by Madras Broadcasting is not and cannot be known at the present time.³ This only adds to the uncertainty of the proposal.

Given the uncertainty posed by a phantom counter-proposal and the tortuous experience of having already undergone the gauntlet of a channel change, Combined Communications submits that for equitable reasons alone the Commission should

²A check with the Corporation Division of the Secretary of State of the State of Oregon reveals there is no entity named “Madras Broadcasting” registered as a corporation or business in Oregon.

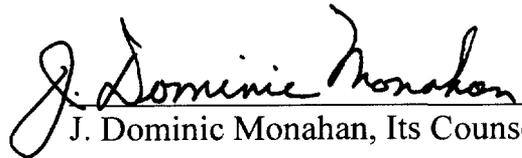
³Should the channel be allocated to Madras, the license eventually will be awarded by auction to the highest bidder. However, the scheduling of that process is undetermined at present.

allocate a channel which allows Brightwood and Madras to each receive FM allocations without disturbing the operation of Station KTWS. But even more compelling is the public interest reasons of promoting fair and efficient distribution of allocations. Surely a resolution of conflicting channel demands which provides each party with its own allocation (including a channel which is the technical equal of the other) is superior to denying one community over the other for a first service. Here, that outcome is not only permissible but can be achieved without any further re-shuffling of existing allocations and operations.

In view of the above, Combined Communications respectfully submits the Brightwood proposal should be adopted and any one of the other available channels be allocated to Madras.

Respectfully submitted,

COMBINED COMMUNICATIONS, INC.


J. Dominic Monahan, Its Counsel

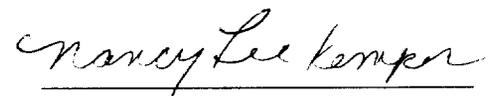
CERTIFICATE OF SERVICE

I, Nancy Lee Kemper, a secretary in the law offices of Luvaas, Cobb, Richards & Fraser, P.C., certify that I have on this 25th day of July, 2000, sent by United States mail, postage prepaid, on behalf of Combined Communications, Inc., copies of the foregoing *Comments* to:

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Shainis & Peltzman, Chartered
1850 M Street, NW, Suite 240
Washington, DC 20036
Counsel for Madras Broadcasting

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Federal Communications Commission
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Nancy Lee Kemper